

110TH CONGRESS
2D SESSION

S. 3628

To amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodations in employment, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 26 (legislative day, SEPTEMBER 17), 2008

Mr. KERRY introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodations in employment, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Workplace Religious
5 Freedom Act of 2008”.

6 **SEC. 2. AMENDMENTS.**

7 (a) DEFINITIONS.—Section 701 of the Civil Rights
8 Act of 1964 (42 U.S.C. 2000e) is amended—

9 (1) in subsection (j)—

1 (A) by inserting “(1)” after “(j)”; and

2 (B) by adding at the end the following:

3 “(2) For purposes of paragraph (1), the practice of
 4 wearing religious clothing or a religious hairstyle, or of
 5 taking time off for a religious reason, imposes an undue
 6 hardship on the conduct of the employer’s business in ac-
 7 commodating such practice only if the accommodation im-
 8 poses a significant difficulty or expense on the conduct of
 9 the employer’s business when considered in light of factors
 10 set forth in section 101(10)(B) of the Americans with Dis-
 11 abilities Act of 1990 (42 U.S.C. 12111(10)(B)).”; and

12 (2) by adding at the end the following:

13 “(o)(1) The term ‘taking time off for a religious rea-
 14 son’ means taking time off for a holy day or to participate
 15 in a religious observance.

16 “(2) The term ‘wearing religious clothing or a reli-
 17 gious hairstyle’ means—

18 “(A) wearing religious apparel (as defined in
 19 section 774 of title 10, United States Code);

20 “(B) wearing jewelry or other ornament as a
 21 religious practice or an expression of religious belief;

22 “(C) carrying a symbolic object as required by
 23 religious observance; or

1 “(D) adopting the presence, absence, or style of
 2 a person’s hair or beard as a religious practice or an
 3 expression of religious belief.”.

4 **SEC. 3. EFFECTIVE DATE; APPLICATION OF AMENDMENTS;**
 5 **SEVERABILITY.**

6 (a) EFFECTIVE DATE.—Except as provided in sub-
 7 section (b), this Act and the amendments made by section
 8 2 take effect on the date of enactment of this Act.

9 (b) APPLICATION OF AMENDMENTS.—This Act and
 10 the amendments made by section 2 do not apply with re-
 11 spect to conduct occurring before the date of enactment
 12 of this Act.

13 (c) SEVERABILITY.—

14 (1) IN GENERAL.—If any provision of an
 15 amendment made by this Act, or any application of
 16 such provision to any person or circumstance, is held
 17 to be unconstitutional, the remainder of the amend-
 18 ments made by this Act and the application of the
 19 provision to any other person or circumstance shall
 20 not be affected.

21 (2) DEFINITION OF RELIGION.—If, in the
 22 course of determining a claim brought under title
 23 VII of the Civil Rights Act of 1964 (42 U.S.C.
 24 2000e et seq.), a court holds that the application of
 25 the provision described in paragraph (1) to a person

1 or circumstance is unconstitutional, the court shall
2 determine the claim with respect to that person or
3 circumstance by applying the definition of the term
4 “religion” specified in section 701 of that Act (42
5 U.S.C. 2000e), as in effect on the day before the
6 date of enactment of this Act.

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